

FINAL

STATEMENT OF REASONS

1. MODIFICATIONS

The Department of Mental Health made modifications to the original "Notice of Proposed Rulemaking". These changes correct typographical errors and add non-substantial text changes. The original text is indicated by underline (underline). Modifications are indicated by strike-out (~~strike-out~~) for deletions and double-underline (double-underline) for additions. These modifications are, as follows:

- **STATEMENT OF REASONS**

JUSTIFICATION FOR POSITIONS; (Page 5)

ADMINISTRATIVE SERVICES

Employee Safety and Support Services

Staff Services Manager II Supervisory* (Attachment 3c)

Added asterisk "*" (Attachment 3c)". This classification was listed incompletely in the public notice. It was not listed as a new position. In addition, the supervisory designation indicates the proper complete title. Finally, a duty statement is added as an attachment.

- **REGULATION TEXT**

- **Appendix A** (Page 2)

ADMINISTRATIVE SERVICES

Employee Safety and Support Services

Hospital Health and Safety Officer

Struck-out the word "Hospital" because it does not reflect the current classification.

LONG TERM CARE SERVICES

State Hospitals

Assistant Hospital Administrators

Struck-out the "s" to indicate a singular rather than plural classification.

OTHER (Page 3, second paragraph)

All Department Consultants*

"With respect to "Consultants, the Director~~3.1~~..."

Substitute comma "," for semi-colon ";" for proper grammatical correction.

- **Appendix B, Category 3** (Page 4, third paragraph)

His or her status as a director, officer, partner, trustee, employee ~~of~~ or holder of any position of management...

Substitute "or" for "of" to indicate proper meaning.

- **DUTY STATEMENTS**

Added a duty statement for "Staff Services Manager II (Supervisory)" as Attachment 3C to the rulemaking file. This document was inadvertently left out of the package.

2. UPDATED DATA, STUDIES, AND REPORTS ON WHICH AGENCY RELIED

The Department has added one document to the rulemaking file:
Attachment 3c, Staff Services Manager II (Supervisory) Duty Statement.

3. DETERMINATIONS

- **LOCAL MANDATE**

The regulations would not impose a mandate on local agencies or school districts, nor are there any savings or costs for which reimbursement is required by Part 7 (commencing with section 17500) of Division 4 of the Government Code.

- **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(12), the Department has determined that no alternative considered by the Department would be more effective in carrying out the purpose for which the action was taken or would be as effective and less burdensome to affected private persons than this action.

4. SUMMARY OF PUBLIC COMMENTS

The Department provided for a 45-day public comment period, beginning March 3, 2000. The Office of Regulations did not receive any requests for a public hearing, nor were there any public comments received in regards to the proposed rulemaking.

5. APPLICABLE FEDERAL LAW OR REGULATIONS

Not applicable

Under the Political Reform Act (the "Act"), all public agencies are required to adopt a conflict of interest code (code). The code designates agency positions required to file Statements of Economic Interests, Form 700, and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interests.

The terms of the code comprise the main body of a code and include such provisions as the manner to report financial interests, the disqualification procedures, etc. The Fair Political Practices Commission (FPPC) recommends that agencies incorporate Section 18730 of Title 2, California Code of Regulations by reference because the type of information required to be in the main body of the code is quite complex and Section 18730 contains all of these provisions. The FPPC will amend the regulation to include legislative and regulatory changes that affect the main body of the code; therefore, this component of an agency's code is automatically in compliance with the Act.

The code must specifically list positions that make or participate in making governmental decisions. Typically, positions that involve voting on matters, negotiating contracts, or making recommendations on purchases without substantive review must be included in codes. Positions listed in Government Code Section 87200 are not required to be included, because these positions automatically file Form 700. The Department reviewed duty statements and enlisted the assistance of division managers to determine which positions should be included.

A primary purpose of the code is to require disclosure of those types of investments, interests in real property, sources of income and business positions that designated positions may affect in their decision-making. For example, the manager of an agency should be assigned full disclosure (all investments, interests in real property, sources of income and business positions) because the manager makes decisions that affect a wide range of interests. Alternatively, a purchasing agent whose decision-making is limited to the purchase of office supplies should only be assigned disclosure of investments, sources of income and business positions in entities that provide office supplies, equipment or merchandise of the type used by the agency.

Codes are not effective until approved by an agency's code-reviewing body. The code reviewing body for state agencies is the FPPC.

Employees whose positions have been added to the code will receive a Form 700, during the annual filing period (approximately January or February 2000), to be completed and returned to the Department's Filing Officer.

CONFLICT OF INTEREST POLICY

Policy

Public officials may not make, participate in making, or in any way use or attempt to use their official positions to influence a governmental decision in which they know or have reason to know they have a disqualifying conflict of interest. Employees in designated positions are covered in the Conflict of Interest (COI) Code.

Designated Positions

Any officer, employee, member, or consultant in a position in which the duties involve making or participating in the making of governmental decisions. These decisions may have a material effect on his/her financial interests and are covered under the COI Code.

Definition of Governmental Decision

A person makes or participates in making a governmental decision if he or she:

- Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or
- Advises or makes recommendations to the decision-maker by conducting research or an investigation, preparing or presenting a report, analysis, or opinion which requires the exercise of judgement on the part of the employee and the employee is attempting to influence the decision; or
- Enters into any contractual agreement on behalf of the agency; or
- Obligates or commits the agency to any course of action; or
- Appoints a person; or
- Votes on a matter.

(Note: Making or participating in making a governmental decision does not include positions which are solely clerical, secretarial, manual, or ministerial.)

Examples of Governmental Decisions

The following types of decisions are considered “governmental decisions”:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the agency to enter into, modify or renew a contract provided it is the type of contract which requires agency approval;
5. Grant agency approval to a contract which requires agency approval and in which the agency is a party to the specifications for such a contract;
6. Grant agency approval to a plan, design, report, study or similar item;
7. Adopt, or grant agency approval of policies, standards or guidelines for the agency, or for any subdivision of the agency.

Consultants

Persons who are working on contract, and who are not employees or appointed officials, are also subject to COI Criteria. An individual on contract should be identified as a designated employee when he/she makes decisions or when he/she both ‘serves in a staff capacity’ and ‘participates in making decisions’.

DEPARTMENTAL DOCUMENTATION

The Department relies upon specific documents in determining that the regulation changes were necessary, as follows:

1. Form 700 1999-00 Statement of Economic Interests
<http://www.fppc.ca.gov/Pdf/Int99-00.pdf>
2. Fair Political Practices Commission Form 700 Fact Sheet
3. Limitations and Restrictions on Gifts, Honoraria, Travel and Loans
4. Department of Mental Health Organizational Chart
5. Appendix of Duty Statements
6. Conflict of Interest Code for the Department of Mental Health (12-1-80)

JUSTIFICATION FOR POSITIONS DESIGNATED TO FILE COI FORM

The Department has determined that specific positions shall file conflict of interest forms. The justification for each new position is detailed below. Positions indicated by an asterisk "*" are newly added to the code. Duty statements, for these new adopted positions are contained in supporting documentation, indicated by attachment number, to the rulemaking file. Some duties may vary slightly for positions used at multiple locations (i.e., state hospitals); however the duty statements provided represent the primary functions for all positions.

DIRECTOR'S OFFICE

Director

Position is under current code.

Chief Deputy Director* (Attachment 1)

Special Assistant to the Director* (Attachment 2)

High-level management positions, exercising a high degree of broad policy-making authority.

Chief, Community and Consumer Relations

Position is under current code (previously Chief of Public Communications).

Position is a high level manager with broad policy-making authority.

All Staff Counsels

Positions are in current code; all attorneys have been placed under this broad category.

Supervising Special Investigators

Position is under current code; previously under the old 'Office of Chief Counsel'.

CALIFORNIA MENTAL HEALTH PLANNING COUNCIL

Executive Officer, California Mental Health Planning Council* (Attachment 3)

Position is a high level manager with broad policy-making authority.

SYSTEMS OF CARE

Specialized Programs/Early Mental Health Initiative

Mental Health Program Supervisor* (Attachment 3a)

Position is responsible for managing grants and monitoring contracts.

Specialized Programs/Adult Systems of Care

Mental Health Program Supervisor* (Attachment 3b)

The position is responsible for directing the adult systems of care program, which includes interagency collaboration and cross-systems administration and funding

ADMINISTRATIVE SERVICES

Employee Safety and Support Services

Staff Services Manager II (Supervisory)* (Attachment 3c)

Associate Business Management Analyst* (Attachment 4)

These positions perform all business services and general services activities requiring headquarters oversight and coordination with DMH facilities.

Health and Safety Officer* (Attachment 5)

This position manages the department's health and safety program.

Business Services Assistant/Officer* (Attachment 6)

These positions administer the department's Procurement program and perform other business services activities.

Associate Governmental Program Analyst* (Attachment 7)

These positions are responsible for the overall development, preparation, making recommendations on and monitoring departmental contracts and Interagency Agreements.

Records Management Analyst (Attachment 8)

This position manages the department's Records and Forms Management Program, including implementing and making recommendations on space layouts.

Financial Services

Accounting Administrators I/II

These positions are currently in the code; they supervise the accounting activities of the department.

Associate Budget Analyst* (Attachment 9)

This position performs a variety of analytical duties related to the development, implementation, monitoring, controlling and administration of various appropriations which comprise the annual budget for the DMH.

LONG TERM CARE SERVICES

State Hospitals

Accounting Administrator I* (Attachment 10)

Supervises the contracts and budget activities of the hospital.

Assistant Hospital Administrator

This position, currently designated, supervises various administrative service functions of the hospital.

Chief, Physician and Surgeon* (Attachment 11)

The position is in charge of medical services of the hospital.

Chief of Professional Education* (Attachment 12)

The position plans, coordinates, directs, and evaluates medical training programs for staff physicians and residents at the hospitals.

Chief of Plant Operations

The position, currently designated, manages the maintenance and plant operations of the hospital.

Data Processing Manager I* (Attachment 13)

The position manages the hospital's information management needs.

Director of Dietetics

Assistant Director of Dietetics

These positions, designated in the code, are currently under the general category of 'food administrators'.

Hospital General Services Administrator* (Attachment 14)

This position has responsibility for the management of the hospital support services.

Patient Benefit and Insurance Officers

Position is currently in the code and is responsible for meeting the legal obligations of the Department to locate, protect, and conserve patient assets.

Pharmacy Services Manager

Position is currently in the code and responsible for pharmacy operations at the hospital.

Training Officers

This position is currently in the code; position is responsible for the planning, organization, evaluation and fiscal management of the hospital's training program.

PROGRAM COMPLIANCE

Mental Health Program Supervisor

Supervising Governmental Auditors I & II

Positions are currently designated, have auditing responsibilities and are involved in making policy decisions.

OTHER

All Career Executive Assignments (CEAs)

These positions are in the code; all positions have been grouped together rather than listed individually.

All Department Consultants

Positions are in the code.